

**HON. KATHLEEN WATERMAN-MARSHALL
SUPREME COURT, NEW YORK COUNTY
PART 9, Matrimonial Division
80 Centre Street, Room 289
New York, New York 10013**

Principal Law Clerk: Sakina McIntosh, Esq.

Email: smcintosh@nycourts.gov

Chambers: (646) 386-4288

Part Clerk: Ira Liffman

Email: SFC-Part9-Clerk@nycourts.gov

Courtroom Phone: (646) 386-3848

Assistant Law Clerk: Madeleine Robinson

Email: mrobinson@nycourts.gov

Chambers: (646) 386-3263

**ALL APPEARANCES IN PART 9 ARE IN-PERSON
As of February 1, 2023**

CALENDAR

- **CONFERENCES: Tuesdays and Wednesdays** (*In Person a/o 2/1/2023)
 - Before the Judge: Tuesdays**
 - Preliminary Conferences*
 - Trial Scheduling Conferences*
 - Pre-Trial Conferences*
 - Before Law Clerk: Tuesdays and Wednesdays**
 - Compliance Conferences*
 - Status Conferences*
- **MOTIONS: Wednesdays** (*In Person a/o 1/1/2023)
 - Unless otherwise directed, oral argument is on the record and parties are required to attend.
- **REQUESTS FOR EMERGENCY INTERIM RELIEF: As Directed By Court** (*In Person a/o 1/1/2023)
 - All requests for emergency interim relief are on the record and parties are required to attend.
- **TRIALS, HEARINGS, SETTLEMENT CONFERENCES: Mondays, Thursdays, Fridays**
(*In Person a/o 1/1/2022)

VIRTUAL PART 9 MICROSOFT TEAMS LINKS

- **Part 9 Virtual Courtroom** (Judge Waterman-Marshall): <https://notify.nycourts.gov/meet/0avpkm>
- **Virtual Conference Room** (Sakina McIntosh, Esq.): <https://notify.nycourts.gov/meet/0avpnb>
 - *You are prohibited from recording video or audio, or taking photos or screenshots (22 NYCRR Parts 29, 131)*

GENERAL PART RULES

- *To create opportunities for attorneys knowledgeable with the subject matter of the action, and who historically have been underrepresented in the Matrimonial Division, courtroom participation of such attorneys is **strongly encouraged**. This could be achieved by giving a less senior, knowledgeable colleague speaking and leading roles in the courtroom, such as the oral argument on a motion for which they prepared the papers.*
- **Matrimonial Mediation and Neutral Evaluation Program:** Part 9 is a presumptive matrimonial mediation part, which means that eligible cases may, at the Court's discretion, be referred to mediation or the neutral evaluation program.
- **Appearances:** Counsel and their clients must be present on any calendared court date unless expressly excused by the Court. All matters are scheduled for times certain before the Judge or the Law Clerk and will be started at the designated time.
- **Decorum for Virtual Appearances:** The Court expects everyone to conduct themselves with the same level of civility and professionalism as if they were in the physical courtroom. Please test your microphones and cameras in advance and be sure to use a quiet room or location with minimal background noise. Counsel will have an opportunity to speak in the normal course and are prohibited from interrupting or speaking over one another.
- **Adjournments:** *Adjournment requests require Court approval and will be addressed by the Court on the scheduled appearance date on the Virtual Conference Room Microsoft Teams Link.* Counsel (or someone from their office with authority to handle their office calendar matters) is required to appear before the Law Clerk on the scheduled appearance date, at which time the request will be addressed and a new date picked. At least one day prior to the scheduled appearance, counsel must give the Court notice of the intent to request an adjournment by e-mail directed to the Law Clerks and, where applicable, provide an affirmation of actual engagement.
- **Communications:**
 - The following documents, which require Court attention, should be e-filed to NYSCEF and followed with a brief e-mail to the Law Clerk, copied to all counsel, notifying that the document has been e-filed:
 - Letters directed to Justice Waterman-Marshall;
 - Stipulations to be So-Ordered;
 - Subpoenas for signature;
 - Proposed Orders and Judgments for signature.
 - Counsel and/or the parties may not submit *ex parte* correspondence, including e-mails, to the Court regarding any pending matter. Correspondence, including e-mails, between counsel or between the parties shall not be copied to chambers.
 - ***Do not include the Court on lengthy or substantive e-mails, unless expressly invited to do so (the Court does not permit litigation by e-mail).***
 - If an issue regarding a pending matter arises, a brief e-mail may be sent to the Law Clerk requesting a conference call, ***only after the parties and counsel attempted in good faith to resolve the issue without Court assistance.***

▪ **Preliminary Conference:**

- A preliminary conference shall take place on the first appearance or the return date of the first motion, unless otherwise directed by the Court.
- Counsel for all parties shall consult prior to the preliminary conference about the substantive issues and discovery and shall make a good faith effort to reach agreement on these matters, whether in whole or in part, in advance of the conference.
- At or before the preliminary conference, counsel or parties must upload to NYSCEF:
 - a completed and signed matrimonial Preliminary Conference Order form;
 - Statements of Net Worth; and
 - where applicable, a child support worksheet and proposed parenting plan.
- Counsel and/or parties to bring to the Preliminary Conference hard-copies of the proposed Preliminary Conference Order, Statements of Net Worth, child support worksheet and proposed parenting plan.
- Parties and counsel should be prepared to discuss all substantive issues in the case, including settlement, to the extent possible.

▪ **Temporary Orders of Protection:** Any request for issuance of a temporary order of protection must contain the Family Protection Registry Information Sheet, and the party must be present.

https://www.nycourts.gov/LegacyPDFS/FORMS/familycourt/pdfs/info_she.pdf.

▪ **Motions:**

- All motions shall be made by Order to Show Cause unless otherwise directed by the Court.
- All motions will be made returnable by the Court on Wednesdays; oral argument is required on the return date unless otherwise directed by the Court.
- Requests for emergency interim relief will be conducted on the record before the Judge as scheduled by the Court. After deciding the emergency interim relief, the Court will set the Wednesday return date for the Order to Show Cause.
- All Orders to Show Cause, Cross-Motions, and related filings must indicate the respective motion sequence number on the first page.
- Affidavits, affirmations, and memoranda of law (exclusive of table of contents and table of authorities) *shall not exceed 25 pages each, double-spaced*.
- The Court does not accept sur-reply papers without prior permission.
- To eliminate the expense and delay caused by excessive motion practice, counsel shall request a conference call (as indicated above) prior to filing motion papers to allow the opportunity to resolve the matter. ***Pendente lite issues may be resolved at the preliminary conference.***
- ***Discovery motions are strongly discouraged.*** Prior to making any motion, counsel must consult one another in a good faith effort to resolve any discovery disputes and, in the absence of resolution, request a conference call with the Court prior to filing any motion.
- Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the Ex Parte Office at (646) 386-3125.

▪ **Settlement Conferences:**

- ***Every single appearance is an opportunity to settle some, if not all, of the issues.***
- The Court will schedule a settlement conference in the appropriate case where the parties are seriously ready and willing to resolve their issues.
- Two days prior to the settlement conference, counsel shall e-mail directly to the judge a spreadsheet listing each item of marital property, with their values and proposed distribution, and a statement, no more than two pages long, setting forth the rationale for their position.

▪ **Trials:**

- All cases scheduled for trial in Part 9 will be scheduled for a Pre-Trial Conference to take place approximately two weeks prior to the first trial date.
- Two weeks prior to the Pre-Trial Conference, counsel or the parties shall file and exchange the following documents:
 - (1) A statement of proposed disposition, a child support worksheet (if applicable), updated net worth statements, and most recently filed tax returns.
 - (2) A spreadsheet listing each item of marital property, with their values and proposed distribution.
 - (3) A witness list, with meaningful offer of proof for each witness.
 - (4) A list of documents which counsel may stipulate into evidence. The documents to be pre-marked as exhibits.
 - (5) Any expert reports not previously exchanged.
 - (6) Marked pleadings and any pre-trial memoranda.
 - (7) Proof of filing of the note of issue.
- Counsel may, where necessary, make motions *in limine* and shall be prepared to discuss any evidentiary issues at the Pre-Trial Conference.
- **Forensic Reports and Testimony.** The report(s) of any neutral forensic expert(s) appointed by the Court will be admitted into evidence subject to all hearsay and other proper objections. Such report(s) may be considered the direct testimony of the forensic expert(s), who shall be subject to cross-examination by the parties.
- **Prepared Direct Examination of Witnesses by Affidavit:** The Court has a protocol for the use of prepared direct examination of witnesses by affidavit for custody and financial matters. Affidavits in lieu of live direct testimony is permissible only upon written consent of the litigants and attorneys and is subject to certain other conditions. Counsel should be prepared to discuss use of this protocol at the Pre-Trial Conference.
- **Virtual Evidence Courtroom:** All trial exhibits shall be uploaded through NYSCEF to the Virtual Evidence Courtroom set up for the case.
- **Post-Trial Submissions:** At the completion of the trial, counsel or the parties to submit proposed Findings of Fact and Conclusions of Law; an updated (if necessary) spreadsheet listing each item of marital property, with their values and proposed distribution as established at trial; and post-trial memorandum of no more than 25 pages.

▪ **E-filing:**

- New contested matrimonial cases in Part 9 are encouraged to be e-filed through the New York State E-Filing System (NYSCEF). The form to convert a paper case to e-filing is at <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/stipulation.and.consent.pdf>
- Please note that only documents filed after the conversion are accessible through NYSCEF, so early conversions (including before a preliminary conference) are encouraged.
- Any questions regarding the e-filing system should be addressed to the NYSCEF Resource Center at nyscef@nycourts.gov.